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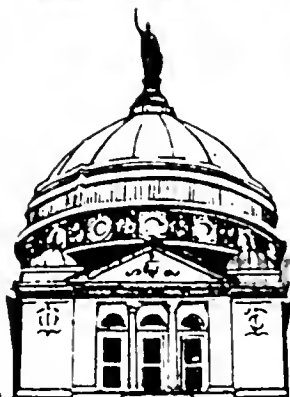


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# THE INTERIM

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## COMMITTEE ON CHILDREN AND FAMILIES

Committee to Hold Second Meeting in Bozeman...Chairman Beverly Barnhart has scheduled the second meeting of the Joint Oversight Committee on Children and Families for 9:00 a.m., Friday, March 18 in the conference room of the Bozeman City Library, 220 E. Lamme. The meeting will focus on the community-based programs for children and families in the vicinities of Bozeman, Livingston, Lewistown, and Billings.

While additional topics and speakers may be accommodated, the tentative agenda includes the following:

- information on Bozeman's interagency child protective team and related confidentiality issues, Mike Salvagni, Gallatin County Attorney;
- collaboration between schools and human service agencies, Dr. Randy Hitz, Dean of the M.S.U. School of Education, Health, and Human Services;
- an update on the DFS Partnership Project, Kate Mrgudic; spokespersons for the various programs for teen parents in the region; and
- various staff reports.

A more detailed agenda will be available closer to the meeting.

Committee Takes on New Study...Senate Joint Resolution No. 2 of the November 1993 Special Session directed the Joint Oversight Committee on Children and Families to examine inefficiencies in the

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provision of adult protective services through the Department of Family Services. At the March meeting, the Committee will amend the study plan, adopted in October 1993, to include a staff report on adult protective services, specifically the legal framework for state intervention in reported cases of elder abuse. It is not certain at this time whether this report will be available for the March meeting, but Andrea Merrill or Doug Sternberg are available at 444-3064 for information on this issue and can supply a copy of the proposed amended study plan.

## **JOB TRAINING PARTNERSHIP ACT REVIEW COMMITTEE**

Review Committee Holds First Meeting...The Job Training Partnership Act (JTPA) Review Committee met February 4. The purpose of the meeting was to provide an opportunity to JTPA Committee members to learn about JTPA programs in Montana and to begin reviewing the draft versions of the proposed job training plans prepared to date by the private industry councils from Montana's two service delivery areas -- the Concentrated Employment Program and the Balance of State.

Will Meet in March to Review Governor's Plan...The JTPA Review Committee will meet again on Friday, March 11 in Room 108 of the State Capitol to review the draft of the Governor's coordination and special services plan that the State Job Training Coordinating Council is currently developing. That plan provides goals and standards for performance of JTPA programs and provides criteria for coordination of the JTPA with other state and local employment, education, and training programs in Montana.

## **COMMITTEE ON POSTSECONDARY EDUCATION POLICY AND BUDGET**

Committee Hears University Restructuring Plan...The Joint Committee on Postsecondary Education Policy and Budget (PEPB) met on January 7 in the State Capitol. Dr. Jeff Baker, Commissioner of Higher Education, gave an overview of the restructuring proposal he intended, with some modification, to present to the Board of Regents in more detail at their January 20-21 meeting. (The plan as modified was subsequently adopted by the Board of Regents.) The plan calls for a geographically-based, "administrative merger" of Eastern Montana College and Northern Montana

College with Montana State University, and of the Montana College of Mineral Science and Technology and Western Montana College of the University of Montana with the University of Montana. The vocational-technical centers would also be affiliated with one of the two main campuses.

Committee discussion of the restructuring plan included the structure in the context of anticipated system enrollment growth; the place of and emphasis on two-year education; the use of a geographic, rather than a mission alignment; and how the structure would improve system efficiency. Because approval or disapproval of the plan was the responsibility of the Board of Regents, the Committee did not take any formal action.

Committee Discusses University Funding...The Committee received a report on the relative contribution of general fund and tuition to total Montana University System (MUS) expenditures and discussed the policy implications of the shift in relative contribution from general fund to tuition.

The Committee heard a report on the use of various funding mechanisms to promote desired policy goals and objectives. The Committee engaged in a general discussion of the MUS and future funding in the context of the tradeoffs among access, quality, and price (available funding). Among the mechanisms reviewed was one submitted by Tom Harding of Whitefish, which uses a funding mechanism to promote the establishment and maintenance of two-year oriented education programs such as those currently offered at Montana's community colleges.

The Committee discussed the policy goal of providing additional access to two-year education, particularly in the context of increases in enrollment expected by the end of the decade and the declining availability of general fund revenues.

The next meeting of the PEPB is scheduled for March 4 in the State Capitol in Helena. For more information, contact Taryn Purdy, Office of the Legislative Fiscal Analyst, 444-2986.

## **SUBCOMMITTEE ON WORKERS' COMPENSATION ALTERNATIVES**

Subcommittee Hears from New Workers' Comp President...The Joint Interim Subcommittee on Workers' Compensation Alternatives met on February 4. The new President of the State Fund, Carl Swanson, gave the Subcommittee an overview of his plans for the State Fund. Those

plans include an increase in the number and quality of audits, improvement in the reporting of injuries, increased customer service, improved organizational structure, the desire to perform a closed claims study, and addressing safety issues.

Swanson also gave the Subcommittee some recommendations from the State Fund Board and business community discussions regarding premium collection-in-advance. The recommendations include the use of promissory notes for the premium-in-advance in the first year; the use of deposit refunds against the premium-in-advance; requiring a 20% deposit the first year for certain size industries to offset paperwork and resource costs; lowering the threshold for monthly payments for the first year which will increase in subsequent years; and the use of automatic bank withdrawals.

Department of Revenue Discusses Unfunded Liability Tax...Jeff Miller from the Department of Revenue reported on the Department's efforts to prepare employers for the collection of the Old Fund unfunded liability tax. He also reported that the revenues from the tax were in keeping with the estimates made during the 1993 Legislative Session. He will provide a follow-up report at the next meeting.

Subcommittee Hears from the Department of Labor...Dennis Zeiler from the Department of Labor reported on the progress of the managed care rules and stated that final draft rules should be finalized by March 1. The Department hopes to have approved managed care organizations up and running by July 1.

John Maloney from the Department of Labor reported the promulgation of administrative rules on the Safety Culture Act. The Safety Advisory Committee has been meeting to formulate user-friendly rules to assist employers in developing a safety attitude and to give the employers guidelines as to what to include in their safety programs. A public hearing will be held on the rules in March.

Committee Discusses Workers' Comp Fraud...A discussion was held on the coordination of the various agencies involved in the prevention, reporting, investigation, and prosecution of workers' compensation fraud. Committee members, staff, and agency personnel will continue to pursue information on fraud coordination and share it at the next meeting.

Staff Reports on 24-Hour Coverage...Staff presented a research report on 24-hour coverage and provided examples of other states' progress. A subcommittee on 24-hour coverage was formed and will report at the next meeting, scheduled for June 10. The tentative agenda for the June meeting will also include reports on:

- assessments to State Fund, self-insureds, and private companies;
- update on workers' compensation database;
- fraud coordination;

- uninsured and underinsured programs;
- managed care;
- safety;
- Old Fund unfunded liability tax revenues; and
- automated benefits information system.

## WATER POLICY COMMITTEE

Committee Meets in February...The Water Policy Committee met on Monday, February 7. The Committee considered a number of issues.

Committee Selects Big Hole River Basin for Study...As part of its interim instream flow study, the Committee heard from various water user groups regarding their perceptions of dewatering problems in Montana. The Committee used this information to select the Big Hole River basin for more in-depth study during the interim. The Committee also heard an update on the April 1994 Public Land Law Conference regarding stream flows. The Committee and the Water Resources Center in Bozeman are co-sponsoring this conference.

Committee Continues Late Claims Study...The Committee reviewed testimony regarding the late claims bill, SB 310, from the 1993 Legislative Session. The Committee also reviewed and discussed various options for extending additional forfeiture remission beyond that provided under SB 310, as well as analyzed some of the potential impacts of additional remission. The Committee decided that the late claims section of its next meeting will focus on concerns regarding the federal McCarran Amendment and the impact of late claims on the state's water adjudication process. The Committee is planning a meeting in eastern Montana later in the interim to ensure maximum opportunity for public involvement in this issue.

Other Issues on Agenda...The Committee also received reports regarding the low snow pack and the potential for drought this year, as well as a report on North Dakota's weather modification permit application.

Next Meeting to be Held in Big Hole River Basin...The next Committee meeting is tentatively scheduled for Thursday, April 7. The meeting will be held at a location within the Big Hole River basin to allow Committee members to better understand the specific hydrology of the basin and the concerns of local water users. The exact location and meeting agenda will be available in early March.

For more information on these issues, please contact the EQC staff at 444-3742.

## STATE HOUSING TASK FORCE

Task Force Holds First Meeting...The State Housing Task Force held its first meeting on Monday, February 14 in the State Capitol. The Task Force postponed the election of officers until the next meeting.

Task Force Hears from the Department of Commerce...Representatives from the Local Government Division in the Department of Commerce described the various federal housing programs administered by the Division.

The Section 8 Program assists low-income families in securing privately-owned, decent, and safe rental housing through a system of subsidies. The subsidies are based on a fair market rent (FMR) for the area as determined by the Department of Housing and Urban Development (HUD). There are currently 6,279 families on the Section 8 waiting list in Montana. The wait for assistance ranges from six months to six years. Recently, HUD lowered the FMRs in Montana. The result is that new program participants are being forced into lower quality housing. In addition, many landlords are withdrawing from the program because the new FMRs make it difficult to meet their expenses.

The HOME Program is the newest HUD program to expand the supply of safe, decent, sanitary, and affordable housing for lower-income Montanans. It is a block grant program that is accessed through a competitive application process. The HOME allocation for Montana in federal fiscal year (FFY) 1994 is \$3.2 million. In FFY 1992, there were 14 HOME grants awarded in Montana. Some of the projects included the construction of new homes, the rehabilitation of owner-occupied housing units and rental properties, and a first-time homebuyers assistance program. The HOME Program has a match requirement of 30% for new construction activities and 25% for all other eligible activities. In the first year of the program, Congress waived the match. In FFY 1993 the Montana Department of Commerce contributed 50% of the required match as a one-time contribution. In FFY 1994, the applicants will be required to provide the full match. For many Montana local governments and non-profit agencies, this will be very difficult and will preclude many of them from applying for the HOME funds.

The Community Development Block Grant (CDBG) Program assists communities of less than 50,000 population with community development projects for economic development, housing, and public facilities. Each CDBG project must demonstrate that at least 51% of the project's beneficiaries are low- and moderate-income persons. The CDBG Program



utilizes a competitive application process with a limit of \$400,000 per individual grant. Since 1982, about one-third of the CDBG funds have gone towards housing. In 1993, five housing grants were awarded for projects involving rehabilitation and new construction of single-family and multi-family units.

The Department of Commerce is also working on a series of publications to assist local governments in developing land use plans and regulations and in drafting zoning ordinances. The publications will discuss how local governments can develop regulations that will encourage the development of affordable housing in their communities.

Board of Housing Discusses Its Activities...The Montana Board of Housing administers seven housing assistance programs through the sale of tax-exempt bonds and administrative fees. The programs range from first-time homebuyers assistance to low-income housing tax credits. The Board recently initiated two new programs to assist people with disabilities to acquire affordable, accessible homes and to develop low-income, multifamily rental housing.

SRS Reports on Low-Income Housing Programs...The Department of Social and Rehabilitation Services also administers some federal programs that assist low-income persons with their housing needs. The Emergency Shelter program provides grants of between \$8,000 and \$10,000 to homeless shelters in Montana, of which there are about 40. The Weatherization Program helps low-income persons reduce their home heating costs while conserving natural resources. The Low-Income Energy Assistance Program (LIEAP) assists low-income persons with the payment of their utility bills. The proposed federal budget includes a provision for cutting LIEAP funding in half.

Task Force Hears from Interested Persons...In addition to hearing from state agencies, the Task Force also took testimony from persons and organizations with concerns about affordable, available housing in Montana. These concerns included the new Section 8 FMRs, housing discrimination, housing opportunities for the mentally ill, and falling prey to low-income stereotypes.

To Adopt Study Plan in March...After much discussion, the Task Force decided to postpone the adoption of a study plan until the members had some time to digest the information presented at the meeting. The Task Force agreed to meet again on March 21 to discuss each member's interests and concerns about housing, and then adopt a study plan.

## LEGISLATIVE COUNCIL

Council Authorizes the Filling of Two Vacant Positions...The Legislative Council met on Friday, February 4 and acted on a number of issues.

Three Council employees who were eligible to take advantage of the early retirement incentive program did so. The two most recent retirees included a proofreader, Phyllis Cote, and Marilynn Novak who supervised the printing, engrossing, and enrolling of legislative bills for many years. After carefully reviewing the role of these positions, the Council authorized staff to fill them and to fill any position created if a current staff member is chosen to fill either of the positions.

Council Sets Price for CD Update...The Council set the price for the MCA CD update at \$54. The update includes all changes to the MCA resulting from special session action, the state income tax law as it stood prior to enactment of HB 671, and annotations written since the last CD release. The update price applies only for purchasers who already bought the 1993 MCA on CD. New purchasers will be able to get the updated CD for the original price of \$160.

To Send Letter to Executive...The Council also reviewed the cooperative efforts between the Executive Branch and the Council in preparation for the last regular session and recommended that a letter be sent from Chairman Gage to the Executive saying that the early bill drafting worked well in the past and that an even higher level of cooperation is hoped for in preparing for the 1995 Session.

Revisions Made to Bill Draft Review Period...Two actions were taken to help speed up the bill preparation process. The Council voted to provide a 7-day review period for legislators to review a draft for a special session. The Council also voted to change the review period before a regular session from 14 days to 10 days. The effect of these changes is to ask legislators to review the early drafts with greater diligence and to contact staff a bit sooner if there is or may be a problem with the draft. If staff hears nothing, then it is assumed that the bill is acceptable and the drafter submits it for legal review, after which only one change, or "Redo", can be made without affecting the work priority of the bill.

Staff to Assist Rep. Bergsagel...Rep. Bergsagel had requested assistance on a project to identify a variety of funding options for state building maintenance. In the event support time exceeded the Council's two-day limit, the Council voted to provide as much staff help as is required on the request.

Council Makes Budget Decisions...After reviewing appropriation reductions enacted by the Special Session, the Council voted to set aside

\$3,000 of the funding available for NCSL activities to cover registration fees for legislators who want to attend the NCSL annual meeting at their own expense. The balance of the NCSL appropriation was designated as a contribution toward dues. Montana will contribute somewhat less than half of the biennial dues requested by NCSL yet receive full service from the organization. The state is paying nothing in dues to the Council of State Governments while still receiving many benefits.

The Council adopted a revised operating budget reflecting the Special Session changes.

## LEGAL DIVISION

### Ballot measures received:

- property taxes at 1986 level
- urge Senator Baucus to resign

Note: pursuant to 13-27-202(2), MCA, copies of correspondence are available through the Secretary of State.

Annotations...The first of three installments of updates to annotation titles has been sent to the printer.

Special Session Publications...The pamphlets containing the revision to the Montana Code Annotated from the November 1993 Special Session have been mailed to subscribers. The remaining publications should be available shortly.

## LIBRARY

Special Session Minutes Available...The Legislative Council Library has received most of the committee minutes from the Special Session and will be arranging for conversion to microfiche. Please call the Council Library at 444-3064 if you want further information.

## ENVIRONMENTAL QUALITY COUNCIL

EQC Meets in January...The Environmental Quality Council (EQC) met Friday, January 28. Agenda items included the appointment of a new Council member, Senator Jeff Weldon; the election of a new presiding officer, public member Jerry Noble; an EQC member tour of the Natural

Resources Information System; an update on Montana Environmental Policy Act implementation; and an update on the bull trout issue.

EQC to Work on Transportation Energy Policy...The EQC, in cooperation with the Montana Departments of Transportation and Natural Resources and Conservation, is convening a collaborative group to develop another component of the state's energy policy. The EQC and other appropriate state agencies were given the responsibility by the 1993 Legislature in SB 225 for conducting an ongoing energy policy development process. The collaborative effort will focus on transportation energy efficiency as it relates to the following three policy topics: the state's role in promoting alternative fuels; transportation demand management; and the means of developing performance standards for congestion on roads. Building on these discussions, the EQC hopes that the collaborative effort may suggest the framework for a general policy on transportation energy.

The first meeting of the collaborative group is scheduled for Wednesday, March 2, at 1:00 p.m. in the Director's Conference Room of the Department of Natural Resources and Conservation.

Council Hears Report on Regional Renewable Energy Project...The EQC received a briefing from Hillary Hayden of the Northwest Energy Act Coalition on the results of the Coalition's 18-month long Regional Renewable Energy Project. The project was a dialogue between energy planners, environmentalists, utilities, and others about regional power planning and conservation, geothermal, solar, and wind resources. Please contact the EQC if you would like a copy of the executive summary of the Coalition's final report.

Council Continues SJR 29 Nondegradation Study...The Council continued its look at water quality nondegradation issues with a panel discussion regarding the use of mitigation in nondegradation decisions. The Council heard from representatives from the regulated industries, private consulting firms, public interest organizations, and the DHES regarding the mitigation issue. The Council identified eight specific issues that it believed warranted additional study. These eight issues were referred to the Joint EQC/WPC SJR 29 Subcommittee for further analysis.

The Subcommittee will meet on Thursday, March 3, beginning at 12:00 p.m. in Room 108 of the State Capitol. Subcommittee members will also review the proposed DHES rules regarding mixing zones at the March 3 meeting. The Subcommittee will report its findings and any recommendations to the full EQC at the Council meeting, Friday, March 4. A Subcommittee meeting agenda is available from EQC staff.

Hazardous Waste Management Working Group Updates Council...The Council received an update on the status of the Hazardous Waste Management Working Group (HWMWG). At its January meeting, the

group began addressing the issue of the adequacy of the state's hazardous waste regulatory framework by discussing criteria for defining what is meant by the term "adequacy". The working group also heard presentations by DHES staff on the siting criteria for hazardous waste facilities employed by other states and by DNRC staff on the requirements of the Major Facilities Siting Act. At its next meeting, scheduled for February 28 at 9:00 a.m., DNRC Director's Conference Room, the HWMWG will continue work on the adequacy of the regulatory framework and on siting criteria. The HWMWG will receive presentations from local government officials and small businesses on the management of conditionally-exempt small quantities of hazardous waste.

Council to Meet Again in March...The Council's next meeting is scheduled for Friday, March 4 in Room 104 of the State Capitol. Apart from the water quality and hazardous waste issues discussed above, agenda items will include a report by the collaborative working group on transportation energy policy development; a multi-media update on Superfund site clean-up projects; a presentation on the newly formed Montana Consensus Council; and a staff presentation and Council discussion on policy issues related to MEPA and agency rulemaking.

For more information on these issues, please contact the EQC staff at 444-3742.

## JUDICIAL UNIFICATION AND FINANCE COMMISSION

Commission Selects Study Models...After a round of questions and answers with four experts in the field of court unification and state financing, the Judicial Unification and Finance Commission, at its February 17-18 meeting, moved into the next stage of its study by proposing four basic study models for judicial reform in Montana. The four models, proposed for study purposes only and each presenting a different vision of state funding and court consolidation, will be further developed and analyzed by legislative staff for the Commission's next meeting, tentatively set for 1 p.m. to 5 p.m., Thursday, March 24 and 8:30 a.m. to 12 noon, Friday, March 25 at the State Capitol.

Prior to its decisions, the Commission heard a statement presented on behalf of Chief Justice Turnage that acknowledged the Commission's task and the Supreme Court's interest in reviewing the Commission's findings and preliminary recommendations. Commission members then reviewed the results of a problem identification survey of District Judges and Magistrate Judges, County Commission Chairpersons, and Clerks of

District Court. The Commission also studied summaries of research papers on court finance, structure, and administration in other states.

Commission Hears from Nationally-Recognized Experts...The meeting was highlighted on Friday, February 18, by a panel discussion with Robert Tobin, Senior Attorney at the National Center for State Courts; Professor Harry O. Lawson, an author and instructor in the master's program on court administration at the University of Denver Law School; Professor Carl Baar, an author and specialist in America's state court systems from Brock University in St. Catherine's, Ontario, Canada; and Dan Schenk, State Personnel Administrator of South Dakota's Unified Judiciary.

Each panelist offered his perspective of court unification and state finance, shared thoughts about specific applications in Montana, and fielded questions from Commission members. Professor Baar noted that Montana's court system seemed inefficiently fragmented and localized and cautioned that judicial reform should be approached in context of the state's current situation and with sensitivity to all concerns. He also challenged the Commission to be innovative, saying that if Montana elected to stay with its current system it would be somewhat unique and that the state should be prepared to defend the reasoning behind that decision.

The panelists could not identify any state as an ideal example of how to structure, administer, and finance a state judicial system. However, the panelists generally agreed that court consolidation and state finance was a more efficient and effective way of organizing and financing state judicial systems. The panelists also seemed to agree that the greatest advantage of court consolidation and state financing was cost avoidance, i.e., creating a judiciary that could better absorb ever-increasing demands without requiring more funding.

If you would like more information about the Judicial Unification and Finance Commission, please contact Sheri S. Heffelfinger or Ellen Garrity at the Legislative Council, 444-3064.

## REVENUE OVERSIGHT COMMITTEE

Committee Begins SID Study and Appoints Subcommittee...The Revenue Oversight Committee is back to regular business following the hiatus caused by the Special Session. The Committee met January 28 to begin its study of financing special improvement districts (SID). Senate Joint Resolution 33, adopted during the 1993 regular session, directs the Committee to study special improvement and rural special improvement district financing. A district court decision in early 1993 concluded that Carbon County was not required to provide loans from the

SID revolving fund to two insolvent rural special improvement districts. Senate Bill No. 426 (SB 426) was introduced to ensure the viability of revolving funds. However, the Legislature was unable to settle the matter and the bill died in the House of Representatives. Senate Joint Resolution No. 33 was introduced to examine the complex issues raised by the court decision and by SB 426.

Committee staff presented a report that summarized the legislative history of special improvement districts in Montana and reviewed some of the legal interpretations relating to the use of special improvement districts. The report also summarized the recent district court decision and discussed the issues raised during the consideration of SB 426.

Following the report, several representatives of local governments presented information on the impact of the court decision on special improvement districts and discussed other issues relating to special improvement districts, including the distinction of improvements made in developed areas as opposed to improvements on "raw" land. Barbara Neuwerth, Department of Health and Environmental Sciences, and Anna Miller, Department of Natural Resources, described the role of the state revolving fund in providing loans for special improvement districts.

Mae Nan Ellingson, Dorsey & Whitney, talked about the importance of special improvement districts for cities and counties. She emphasized the importance of financial tools that result in the lowest possible cost for SIDs within the framework of limitations established by the Legislature. John Shontz, who represented Carbon County, told the Committee that there are several policy issues that should be answered regarding the purpose of the revolving fund and who ultimately should bear the risk for SID bonds.

The Committee decided that the study of financing special improvement districts could be more efficiently considered by a subcommittee. Chairman Harrington appointed Sen. Crippen, Sen. Towe, Sen. Beck, and Rep. Ream to the subcommittee. Sen. Crippen was appointed chair of the subcommittee. Sen. Crippen requested that interested persons submit an outline of important issues to be considered.

The Carbon County case was appealed to the Montana Supreme Court and oral arguments were made in early January. The decision of the Supreme Court may have some impact on the course of the study.

Department of Revenue Reports...House Bill No. 2 of the 1993 Special Session required the Department of Revenue to distribute an informational individual income tax worksheet that would allow taxpayers to compare actual 1993 income tax liability with the tax liability of House Bill No. 671 (HB 671) if that measure had not been suspended by the initiative petition. The Department informed the Committee that the worksheets have been prepared. However, few taxpayers will receive the worksheet in the mail, but the worksheets are available from tax preparers and at locations where tax forms are available, such as public libraries. The Department also informed the Committee that it has revised



income tax withholding tables to comport with the effects of the suspension of HB 671. The new withholding tables are effective April 1, 1994.

The Department also discussed legislation enacted during the Special Session that affects the Department. The most important was the enactment of House Bill No. 50. This measure changes the property assessment functions of the Department and makes most county assessors employees of the state. Assessors will remain elected offices in seven counties (Butte-Silver Bow, Granite, Powell, Rosebud, Roosevelt, Sanders, and Yellowstone counties).

The Department also summarized the status of significant litigation. The summary included the taxation of retirement income, property valuation under sales assessment ratio studies and under the recently completed reappraisal, the refund of coal severance taxes to the Crow Indian Tribe, and the constitutionality of the railroad car tax. The U.S. Supreme Court recently upheld the validity of a similar railroad car tax in Oregon. The decision may result in several million dollars of tax revenue in the biennium.

Committee and Subcommittee to Meet in March...The Revenue Oversight Committee will meet Friday, March 25 at 9:30 a.m. in Room 104 of the Capitol. The SID study subcommittee will meet Thursday, March 24 in Room 104. The exact time for the subcommittee meeting has not been set.

## LEGISLATIVE FINANCE COMMITTEE

Committee to Meet on March 11...The Legislative Finance Committee will meet at 9:00 a.m. on March 11 in Room 108 of the State Capitol. Reports to be presented by the staff of the Legislative Fiscal Analyst will include:

- proposed budget amendments;
- a summary of the 1993 Special Session Appropriations Report;
- a revised LFA 1995 biennium workplan;
- status of interentity loans;
- Medicaid cost estimates for the 1995 biennium; and
- a report on progress of implementation of House Bill 7, the revised budget process for the 1997 biennium.

The Committee will also hear a report on the status of the reorganization of the university system from Dr. Jeff Baker, Commissioner of Higher Education.



Senate Bill No. 378 Subcommittee to Meet March 10...The Legislative Finance Committee Subcommittee on the Review of Dedicated Revenue Provisions and Statutory Appropriations will hold its first meeting at 3:00 p.m. on Thursday, March 10 in Room 108 of the State Capitol. Subcommittee members are Senator Swysgood, Senator Jacobson, Representative Bardanouve, Representative Zook, and Senator Grosfield (ex-officio). The March 10 agenda will include the selection of a subcommittee chairperson; a review of over 300 state special revenue accounts by category; and development of a plan for the review of all dedicated revenues and statutory appropriations.

Special Session Appropriations Report Available...The Office of the Legislative Fiscal Analyst released the 1993 Special Session Appropriations Report in mid-February, and copies were distributed to legislators and state agencies. Copies of the report can be obtained from the Legislative Council, 444-3064, at a cost of \$12 per copy.

## THE BACK PAGE

In November 1994, the citizens of Montana will once again be faced with a critical policy choice about property taxation which, in turn, forces choices in how the citizenry will govern itself. This edition of "The Back Page" looks at some of the similarities and differences between California's Proposition 13 and Montana's Constitutional Referendum 28 and focuses on some of the questions at the center of the issues.

**CALIFORNIA'S PROPOSITION 13  
AND MONTANA'S CONSTITUTIONAL REFERENDUM NO. 28:  
SOME COMPARISONS AND QUESTIONS**  
by Dave Bohyer

Looking Ahead Beginning with a California Retrospective

Some 16 years ago, Howard Jarvis of California spearheaded a grassroots voter movement that culminated in the passage of Proposition 13 by a 2-1 margin. The substance of the proposal rolled back property values for tax purposes to 1975 levels, allowed a maximum tax rate of 1% of assessed value, restricted assessed value appreciation for property retained in current ownership to a maximum rate of 2% annually, and established acquisition value as the assessed value of newly constructed property and property that changed ownership. The California revenue system, public service delivery system, and levels of taxpayer satisfaction and confidence that have developed since 1978 are either good or not so good -- depending on who is assessing the situation.

William Stubblebine, in "If Proposition 13 Ain't Broke, What Needs Fixing" (State Tax Notes, Tax Analysts, Vol. 6, No. 3, January 17, 1994, p. 159) introduces one perspective this way:

Adopted in June 1978, Proposition 13 delivered what it promised. Property tax revenues statewide were halved. Instead of claiming a rapidly growing share of personal income, property tax levies have grown at a much slower rate. At least through 1990, the more general call for fiscal restraint represented by Proposition 13 was heeded.... Proposition 13 represented a significant and continuing reduction in the share of state personal income devoted to California governments. The 1989-90 tax share of [state personal income] equaled the 1962-63 share. It was as though the intervening quarter century of growth in California government taxing had not happened.... Do we need property

tax reform? No -- and yes. No! in the sense that Proposition 13 is not broke and don't need no fixin'. Yes! in the sense that a radical reallocation of tax sources among California governments could prove constructive for all concerned.

Virtually all accounts of California's post-Proposition 13 experience reflect Stubblebine's assessment that taxpayers have received the tax relief that Proposition 13 promised. But there have also been consequences. An alternative perspective is offered by Richard Reeves in the January edition of Money magazine.

The decline and fall of California became apparent to me one autumn night in 1992 soon after I moved back following 10 years away. I was riding with Los Angeles Police Department narcotics officers in a caravan of five unmarked cars. Suddenly the caravan stopped, and the men and women began running from car to car. They had to do that. It was the only way they could exchange the message they had heard on three incompatible radio telephone frequencies.... What had happened to the California that I knew in the late 1970s, ... once upon a time in a golden land by the sea.... Prop. 13 worked--and then some. But 15 years later, the lessons of Prop. 13 read like cliches: There's no free lunch; you get what you pay for. Inevitably, as revenues fell, spending and critical public services were cut. In California, those cuts have led to crises in education, medical care and public safety. They have triggered a civil war pitting the old against the young, longtime residents against new, whites against black and brown, haves against have-nots.... By going too far to make their life comfortable today, people all over the country may well be selling out their tomorrow.

#### Framing the Modern Property Tax Reform Issue "Montana Style"

For the past decade, much public and political debate in Montana has revolved around property taxes. Initiative No. 105 in 1986 encouraged the Legislature to adopt comprehensive tax reform or be forced to live with relatively severe limitations on the property tax as a revenue source; significantly, no such reform action was taken by the Legislature in 1987. However, in 1989, Senate Bill No. 469 and House Bill No. 747 were considered by the Legislature, each of which would have allowed the electorate the opportunity to vote on replacing significant portions of property tax and income tax revenue with sales tax revenue. Again, the reforms were not adopted. A similar tune was heard in the 1993 Legislative Session with the introduction of Senate Bill No. 235. This time, however, the legislation was adopted and allowed the electorate to

decide the question on whether or not a general sales tax would be imposed and the revenue used to offset substantial portions of property and income taxes. The measure was defeated by the electorate by a margin of 3-1. (Subsequently, House Bill No. 671, overhauling Montana's income tax system, was suspended by initiative.)

During the months preceding Montana's November 1994 Special Legislative Session, the Governor created an advisory council to examine the issue of property taxation in Montana with the purpose of recommending changes to the Special Legislative Session. While making several recommendations for substantial revision of property taxation, the advisory council's proposals were something different than the administration envisioned, which led to an alternative legislative proposal (House Bill No. 29) that passed the House, but not the Senate. A Senate plan, consisting of three bills (SB 25, 26, and 27) representing the recommendations of the advisory council failed in part (SB 25 and 26 died in the process) and succeeded in part with the adoption of Senate Bill No. 27.

#### Montana Senate Bill No. 27: Constitutional Referendum 28 (CR 28)

Senate Bill No. 27, amending Article VIII, section 3, of the Montana Constitution, will appear on the November 8, 1994 ballot as Constitutional Referendum No. 28. The substance of the referendum, if adopted by the electorate, will allow the Legislature to establish "acquisition value" as the assessed value of property for tax purposes. The referendum will also allow the Legislature to adopt legislation that could otherwise limit increases in the assessed value of property for tax purposes. Unlike California's Proposition 13, CR 28 does not roll back values to a previous date, establish acquisition cost as the assessed value of property or definitively restrict appreciation in assessed values, or strictly limit the amount of property tax that can be levied. CR 28 does, however, allow the Montana Legislature to do everything that Proposition 13 required in California.

#### Issues Being Discussed as the Election Draws Near

While the property tax situation in Montana in 1994 has some similarities to California's situation in 1978, the similarities are more in direction than in magnitude. Property taxes in Montana increased dramatically in the last decade: from \$486 million in 1982 to \$558 million in 1987 to \$588 million in 1992, or a 5% increase from 1987 to 1992 and a 17% increase from 1982-1992. (Biennial Reports, Montana Department of Revenue.) Those numbers do not, however, show the effects of the 1993 statewide reappraisal or increased levies for K-12 education,

increases estimated at another \$65 million, or some 11% in just two years. The increases are very real and very significant, especially to the individual taxpayer.

Some questions being posed and matters debated include:

- Montana's state fiscal affairs of barely balanced budgets vary significantly from California's \$5 billion state surplus. What might the differences in state resources mean to the service recipients and taxpayers?

- What implications, i.e., "equity issues", are there if acquisition cost is established as the assessed value of a property? How might neighbors' property taxes be affected by the acquisition cost model? How might property taxes differ among geographic regions of the state or even within counties? To the extent variances in valuation become prevalent, does it make any difference and if it does, to whom?

- Commercial and residential property are in the same property class in Montana. Could the acquisition cost model result in outcomes for residential property that might be different from the outcomes of the model for commercial property?

- Is there any implication for capital construction or maintenance funds or for public infrastructure that would be financed through bonding programs?

- Are there any implications for retirement programs funded with property tax revenue, especially any programs that might currently be underfunded?

- If acquisition cost is adopted by the Legislature, some taxpayers could see immediate or short-term reductions in their tax bills, others could see longer-term reductions, and others still might actually see increases. What were the experiences to individual taxpayers in California and elsewhere? Could similar experiences be expected in Montana?

- What happens if CR 28 or some other measure isn't adopted? Does it matter?

To be sure, the concerns that are on the surface of Montana's on-going property tax debate are visible and prominent, especially the fact that property taxes are rising and at least some of the public are asking for relief. As the debate develops over the next eight months and as the election on CR 28 draws closer, some more subtle questions (but having just as important implications) may also be asked and may deserve to be answered. Regardless of the outcome of the vote on CR 28, the property tax issues are not likely to just go away.



## INTERIM CALENDAR

### MARCH

March 3, EQC/WPC Water Quality Nondegradation Subcommittee,  
Room 108, 12 Noon

March 4, Environmental Quality Council, Room 108, 8:30 a.m.

March 4, Committee on Postsecondary Education Policy and Budget,  
Room 108, 9:00 a.m.

March 10, Legislative Finance Committee's Subcommittee on Review  
of Dedicated Revenue Provisions and Statutory Appropriations,  
Room 108, 3:00 p.m.

March 11, Legislative Finance Committee, Room 108, 9:00 a.m.

March 11, Job Training Partnership Review Committee, Room 108,  
9:00 a.m.

March 18, Committee on Children and Families, Bozeman City Library,  
9:00 a.m.

March 21, State Housing Task Force, Room 437, 10:00 a.m.

March 24, Revenue Oversight Committee SID Subcommittee, Room  
104

March 24, Judicial Unification and Finance Commission, Room 437,  
1:00 p.m.

March 25, Judicial Unification and Finance Commission, Room 437,  
8:30 a.m.

March 25, Revenue Oversight Committee, Room 104, 9:30 a.m.

APRIL

April 7, Water Policy Committee

April 8, Subcommittee on Insurance Issues, Room 104

April 15, Subcommittee on Veterans' Needs, Room 104

April 21, Legislative Audit Committee

MAY

May 26, Revenue Oversight Committee SID Subcommittee, Room 104

May 27, Revenue Oversight Committee, Room 104

May 31, Memorial Day, holiday

JUNE

June 10, Subcommittee on Workers' Compensation Alternatives, Room 104, 10:00 a.m.





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